

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)
)
)
Plaintiff,)
)
v.) Case No. 05-00424-03-CR-W-ODS
)
)
RUSSELL B. COHEN,)
)
Defendant.)

**MEMORANDUM OF MATTERS DISCUSSED AND
ACTION TAKEN AT PRETRIAL CONFERENCE**

PENDING CHARGE: On November 16, 2005, the Grand Jury returned a two count indictment against defendants Timothy J. Muldoon, Tina D. Muldoon and Russell B. Cohen.¹ The indictment charges the defendants with presenting false claims to the United States in violation of 18 U.S.C. §§ 287 and 2 (Count One) and 18 U.S.C. §§1001 and 2 (Count Two).

The following matters were discussed and action taken during the pretrial conference:

TRIAL COUNSEL:

Government: Linda Marshall

Case Agent: Special Agent Monique Sanchez of the Department of Energy

Defense: Christopher Grillo

John Picerno, local counsel

OUTSTANDING MOTIONS: None

TRIAL WITNESSES:

Government: 15 witnesses with stipulations; 20-21 witnesses without stipulations

Defendants: less than 5 witnesses, including the defendant

TRIAL EXHIBITS

Government: 273 exhibits (mainly business records)

Defendant: 1 Exhibit in addition to those exhibits on the government's list

DEFENSES: General Denial

¹The case against defendants Timothy Muldoon and Tina Muldoon has been transferred to the Southern District of Florida for plea and sentencing.

POSSIBLE DISPOSITION:

(X) Definitely for trial; () Possibly for trial; () Likely a plea will be worked out

TRIAL TIME: 3 ½ -4 days²

Government's case including jury selection: 3 days
Defense case: ½ day or less

STIPULATIONS: The parties are working on stipulations as to chain of custody and that documents are business records.

UNUSUAL QUESTIONS OF LAW: None

FILING DEADLINES:

Witness and Exhibit List

Government: Friday before the pretrial conference

Defense: Friday before the pretrial conference

Counsel are requested to list witnesses in alphabetical order on their witness list.

Exhibit Index, Voir Dire, Jury Instructions: Noon, Wednesday, October 25, 2006

Please Note: Jury instructions must comply with Local Rule 51.1

Motion in Limine: Defense counsel indicated he may file something to re-raise all of the issues raised in his pretrial motions. Government counsel also indicated that she does not intend to raise issues from the Florida prosecution, in which case the defendant is also charged, in her case in chief. Thus, defendant will not need to file a motion in limine to keep out that evidence.

TRIAL SETTING: Criminal jury trial docket commencing November 6, 2006.

Please note: Ms. Marshall, counsel for the government, is available only the first week of the docket.

IT IS SO ORDERED.

/s/
SARAH W. HAYS
United States Magistrate Judge

²Defense counsel believes that this estimate of the trial time is too optimistic and that the case will take a week to try.

